

DOCKET NO.: 231062US0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

GROUP: 1628

Guillaume CASSIN

SERIAL NO: 10/698,403

EXAMINER: Cruz, Kathrien Ann

FILED: November 3, 2003

FOR: SILICA/ALUMINA COMPOSITE FILLER USEFUL FOR MATTIFYING
SKIN

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s). No more than five (5) pages are provided.

I am the attorney or agent of record.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.

Richard L. Treanor
Registration No. 36,379

Jeffrey B. McIntyre
Registration No. 36,867

Customer Number

22850

Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 07/09)

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IN RE APPLICATION OF :
Guillaume CASSIN : EXAMINER: CRUZ, KATHRIEN ANN
SERIAL NO: 10/698,403 :
FILED: NOVEMBER 3, 2003 : GROUP ART UNIT: 1628
FOR: SILICA/ALUMINA COMPOSITE :
FILLER USEFUL FOR
MATTIFYING SKIN

**ATTACHMENT IN SUPPORT OF PRE-APPEAL BRIEF
REQUEST FOR REVIEW**

COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 22313

SIR:

The Examiner rejected the pending claims under 35 U.S.C. § 103 as obvious over U.S. patent 5,587,170 (“Caisey”) in view of U.S. patent 3,819,825 (“Goodwin”) and further in view of U.S. patent 2,892,797 (“Alexander”). This rejection constitutes legal error and should be withdrawn for at least the reason that no *prima facie* case of obviousness has been set forth.

The pending claims require treating greasy skin with a composition containing a silica/alumina composite and a thickening hydrocolloid. The invention methods treat greasy skin by simply applying a composition containing the required ingredients to skin -- that is, the invention methods “consist of” applying the composition to skin. No further action (such as removing the composition) is required.

The Examiner recognized that the primary reference Caisey neither teaches nor suggests treating greasy skin, the required silica/alumina composite, or the required thickening hydrocolloid. (Office Action at page 9). Thus, the primary reference is completely irrelevant to the invention methods.

Goodwin also fails to teach or suggest the invention methods. Goodwin requires formation of a white film on skin, followed by rinsing, to treat greasy skin. (See, col. 2, line 1 et seq.). Such a multi-step process is significantly longer and more cumbersome than the simple application involved in the invention methods and, in fact, teaches away from the claimed methods. Further, the fact that Goodwin teaches a composition which forms a white film on skin which must be removed demonstrates that Goodwin's compositions, and the ingredients therein, are completely different from the "leave-on" compositions used in the invention methods.¹

Alexander does not teach or suggest treating greasy skin.

Thus, none of the asserted art teaches or suggests treating greasy skin by simply applying the composition to the skin. Accordingly, the asserted art does not contain each and every element of the invention methods, so no *prima facie* case of obviousness has been set forth.

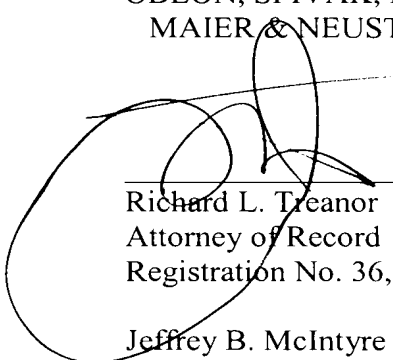
¹ Goodwin corresponds to FR 2,167,931 discussed at pages 5 and 6 of the present application. As discussed in the present application, Goodwin fails to disclose the required thickening hydrocolloid, so it would not lead one of ordinary skill in the art to believe that stable compositions containing both the required silica/alumina particles and the required hydrocolloid could be prepared.

Application No. 10/698,403
Attachment in Support of Pre-Appeal Brief
Request for Review

In view of the above, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Richard L. Treanor
Attorney of Record
Registration No. 36,379

Jeffrey B. McIntyre
Registration No. 36,867

Customer Number

22850

Tel #: (703) 413-3000
Fax #: (703) 413-2220